

Remarks/Arguments

Applicants respond to the Office Action of April 1, 2005. All claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over Myers, et al. (US Patent 5,602,184) in view of Gould, et al. (US Patent 5,587,402) and 35 U.S.C. § 112.

Applicants had a telephonic interview with Examiner Jones on July 28, 2005. Applicants thank Examiner Jones for the helpfulness of her suggestions and the courtesy of her time.

In a telephone interview, Applicants explained their position, briefly summarizing their previous response of November 13, 2004, to Examiner Jones. Examiner Jones and Applicants agreed that Applicants will consider amending the claims to clearly indicate that the cited prior art does not read on the instantly claimed invention.

§ 103 Rejections

Applicants have now amended to claims to make absolutely clear that Applicants do not mean for radiation (as embodied in the Examiner cited art) to be “chemotherapy” as claimed. Applicants direct the Examiner’s attention to the specification paragraphs [0055] through [0057] for support. Applicants continue to assert that the Examiner’s prior art does not discuss the combination of chemotherapy and monoterpenes or sesquiterpenes.

Applicants do not agree with the Examiner that it would be obvious to one of skill in the art to modify the invention of Myers, et al. by using the teaching of Gould, et al. Myers teaches the effectiveness of combining a terpene with radiation. Gould teaches the effectiveness of the terpenes themselves. Neither references speaks to the combination of the terpene with chemotherapeutic methods. Applicants agree with the Examiner that “Gould, et al. disclose that the monoterpenes themselves are chemotherapeutic agent candidates and the

use of cytokines” but Gould does not speak to the sensitization of tumor cells by combining the terpene and other chemotherapy agents.

Neither piece of cited art relates at all to the combination of terpenes such as perillyl alcohol with any therapeutic mode other than radiation therapy. Neither piece of cited art would make treatment with terpenes such as perillyl alcohol obvious to combine with chemotherapy because neither piece of prior art cites any particular advantage or usefulness of such a combination. The references are simply silent on this subject. The teaching that one may successfully sensitize cancer cells to chemotherapy treatment by administering monoterpenes or sesquiterpenes is found within the present invention.

§ 112 Rejection

The Office Action had rejected claim 26 as being indefinite. Applicants have neglected to amend the phrase “immunomodulatory agent” in line 4 to be consistent with the amendment in line 1. Applicants apologize and thank the Examiner for catching this inconsistency. Claim 26 has now been amended.

RCE

Applicants have filed an RCE so that the new claims and arguments may be fully considered.

Appl. No. 10/014,724
Amdt. Dated September 28, 2005
Reply to Office Action of April 8, 2005

Applicants have submitted a Petition and Fee for Extension of Time for Three Months so that this response will be filed in a timely manner. If further fees are needed, please charge Deposit Account 17-0055.

Respectfully submitted,

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